



Expert Roundtable on Social Justice, Economic Inclusion and Immigration: A project of the Law Trust Chair in Social Justice, Faculty of Law, Stellenbosch University

Programme Pack

Theme: “Social Justice, Economic Inclusion and Immigration: Exploring the social justice dimensions of polarising nationalism and xenophobia concerning employment and informal sector opportunities.”

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Date: 12 May, 9 am – 5 pm SAST

Venue: Hybrid event taking place on Zoom and at STIAS

Zoom for virtual participants:

The registration link for the expert roundtable: <https://bit.ly/3EM0Dq6>

Registration link for in-person participants:

Google Form: <https://forms.gle/hbhYcDt3qrBk7kdu6>

I Purpose

The broad objective of the programme is to explore the social justice implications of the historic and recent resurgence of discontent toward foreigners in South Africa, immigration policy, utilisation of business opportunities and employment in the formal and informal sectors of the economy. The secondary objective is to explore the nature of xenophobia through a social justice lens anchored in human rights.

II Objectives

With this expert roundtable, the Law Trust Chair in Social Justice aims to:

1. Inform (about immigration law, human rights obligations and social justice imperatives regarding immigration and shared humanity regarding work, wealth and other dimensions of economic inclusion).

2. Transform (by embracing shared humanity within a constitutional governance and accountability rubric).
3. Inspire (to appreciate social justice dynamics of immigration and economic opportunities in the country and the continent).

The conference is focused on three (3) dimensions:

1. Exploring the historic, current and future immigration policy of South Africa, its implementation and its effectiveness in achieving a socially just purpose.
2. Critically analysing the legal, human rights and economic dimensions of foreign workers in South Africa with a specific focus on the effect on business opportunities and employment within the informal sector and social justice implications thereof.
3. Identifying the nature and consequences of xenophobia through a social justice lens, as well as exploring the triggers, causes and solutions to rising violence against foreigners arising from xenophobic sentiment amongst discontented South Africans.

III Outcomes

The outcomes of the expert roundtable will be to:

1. Submit a policy brief to Parliament.
2. Publish a research paper/report.
3. Submission to parliament on the Draft National Labour Migration Policy and Employment Services Amendment Bill.

IV Background

This conference is an initiative of the Law Trust Chair in Social Justice and is executed as part of the Chair's mission to promote social justice scholarship, consciousness and collaboration to accelerate social justice reform in academia and society. Events form part of a suite of activities and projects under the Chair, aimed at mobilising the nation and the global community around a Musa Plan for Social Justice (the M-Plan), a Marshal Plan like Integrated Programme of Action for accelerated social justice advancement to end poverty and break the back of structural inequality by 2030 in the pursuit of the sustainable development goals and National Development Plan objectives.

Contextualisation:

During the June 2021 unrest, the group known as Operation Dudula gained momentum in spreading its message amongst discontented South Africans. The group's message is based on the belief that undocumented foreign nationals are responsible for the rising unemployment rates, high levels of crime and the existence of criminal syndicates in the country.¹ The group has taken measures to mobilise communities' xenophobic sentiment, through the intimidation of foreign traders and shopkeepers to have them closed down and

¹ De Villiers J, "Removing foreign nationals by force': What is Operation Dudula?", News24, <https://www.news24.com/news24/analysis/in-depth-removing-foreign-nationals-by-force-what-is-operation-dudula-20220215>

leave the community² and the organisation of demonstrations against undocumented migrants where xenophobic slogans are displayed and sung.³

The opposition to foreign national workers is not new. A violent flare-up in the past led to the killing of a Mozambican immigrant. Thereafter sporadic flare-ups tended to target “spaza shops” (informal convenient stores typically in townships and villages). In the current anti-foreigner flare-up, which primarily targets black foreigners, some groups have called for the hospitality industry to employ more South Africans,⁴ even staging visits to confront a number of restaurants on the employment ratio of foreign nationals.⁵

While many condemn⁶ the sentiments expressed by the groups cited above as clear signs of xenophobic rhetoric,⁷ with the accompanying fears of a possible resurgence in feelings of distrust, unease and hatred towards foreigners that could spark violent attacks, others believe that it is the rhetoric and actions reflected in the community’s legitimate effort to counteract the unemployment crisis in an area that government has neglected.⁸ Government has also been blamed for failing to implement its own immigration laws giving rise to the need for self help by affected groups.⁹

The government’s response to the recent events seemingly resulted in a proposal to amend certain legislation dealing with the regulation of foreign national workers. The Employment and Labour Minister released the National Labour Migration Policy (NLMP) and Employment Services Amendment Bill for public comment. The bill creates limits on the number of foreign nationals that are permitted to work in certain occupations, sectors or regions.¹⁰ Proposed change includes amendments to the Small Business Act, which seeks to limit

² De Villiers J, “Removing foreign nationals by force’: What is Operation Dudula?”, News24, <https://www.news24.com/news24/analysis/in-depth-removing-foreign-nationals-by-force-what-is-operation-dudula-20220215>

³ Gerber J, Victimisation of informal traders, migrants undermines the Constitution - Concerned Africans Forum, News 24, <https://www.news24.com/news24/southafrica/news/victimisation-of-informal-traders-migrants-undermines-the-constitution-concerned-africans-forum-20220221>

⁴ Matiwane Z, DA says EFF restaurant inspection visits are 'workplace terrorism', Sowetan Live, <https://www.timeslive.co.za/politics/2022-01-19-da-says-eff-restaurant-inspection-visits-are-workplace-terrorism/>

⁵ Matiwane Z, DA says EFF restaurant inspection visits are 'workplace terrorism', Sowetan Live, <https://www.timeslive.co.za/politics/2022-01-19-da-says-eff-restaurant-inspection-visits-are-workplace-terrorism/>

⁶ <https://www.news24.com/news24/opinions/fridaybriefing/friday-briefing-behind-the-hate-are-african-migrants-really-such-a-threat-to-south-africans-livelihood-20220225>

⁷ Evans J, SAHRC slams 'Soweto Parliament' spaza shop directive as xenophobic, News24, <https://www.news24.com/news24/southafrica/news/sahrc-slams-soweto-parliament-spaza-shop-directive-as-xenophobic-20210813>

⁸ Bornman J, How politicians stoke fires of xenophobic resentment, City Press, <https://www.news24.com/citypress/voices/how-politicians-stoke-fires-of-xenophobic-resentment-20220203>

⁹ Hiropoulos A 2017 “Migration and detention in South Africa: A review of the applicability and impact of the legislative framework on foreign nationals” apcof.org/wp-content/uploads/08-migration-and-detention-in-south-africa-alexandra-hiropoulos.pdf

¹⁰ Magubane K, New quotas for foreign workers, who will be banned from starting small businesses in some sectors, Finance24, <https://www.news24.com/fin24/economy/new-quotas-for-foreign-workers-who-will-be-banned-from-starting-small-businesses-in-some-sectors-20220228>

foreign nationals from establishing small and medium-sized enterprises and trading in some sectors of the economy.¹¹

Issues to be explored:

The expert roundtable seeks to:

1. Address the recent sentiment expressed and actions taken by certain South African groups and the general public regarding the employment of foreign workers and their participation in relation to utilising business opportunities in the formal and informal sectors of South Africa.
2. Confirm the constitutional responsibility government has regarding advancing social justice and protecting the fundamental human rights of both nationals and non-nationals, cross-referencing to international human rights obligations.
3. Explore the government's current immigration policies and the effectiveness of the enforcement of immigration policies by the Department of Labour and other stakeholders.
4. Identify the lingering issues stemming from the perceived lack of adequacy of the immigration policy and lack of enforcement and explores solutions to remedy the inadequacies.
5. Unpack the effect of these policies on various sections of society which are historically disadvantaged individuals, including but not limited to race, gender, the elderly and the youth, people with disabilities and other class dimensions.
6. Explore the nature of xenophobia through a social justice perspective, as well as the rise of a historic xenophobic sentiment expressed through South Africans' discontent and frustration with the inadequacy of government's (in)action/ paralysis in dealing with the persisting unemployment crisis which have recently spurred vigilantism.
7. Explore the response of government to the recent events and address the appropriateness and effectiveness thereof.
8. Explore the immigration and foreign worker employment policies of different countries that have experienced or are experiencing similar issues which are now plaguing South Africa.
9. Comment on the NLMP and Employment Services Amendment Bill.
10. Propose a social justice and human rights resonant approach to regulating immigration and sharing economic opportunities such as informal sector entrepreneurship and employment.

VI Stakeholders

Every person with an interest in a social justice and human rights resonant approach to regulating immigration and sharing economic opportunities such as informal sector entrepreneurship and employment.

IX Programme and related activities:

¹¹ Magubane K, New quotas for foreign workers, who will be banned from starting small businesses in some sectors, Finance24, <https://www.news24.com/fin24/economy/new-quotas-for-foreign-workers-who-will-be-banned-from-starting-small-businesses-in-some-sectors-20220228>

Programme Director: Prof Thuli Madonsela (Law Trust Chair in Social Justice, Stellenbosch University and M-Plan Convenor)

09:00 – 09:30 **Opening**

09:00 – 09:10 **National Anthem and Preamble**

09:10 – 09:15 **Housekeeping** (5 mins): Prof Thuli Madonsela (Law Trust Chair in Social Justice, Stellenbosch University and M-Plan Convenor)

09:15 – 09:30 **Opening Remarks** (15 mins): Prof Nicola Smit (Dean of Law, Stellenbosch University)

09:30 – 10:10 **Keynote Address** (40 mins): **Representative of the Minister of Home Affairs Dr. PA Motsoaledi: Sihle Mthiyane** (Chief Director: Policy and Strategic Management, Department of Home affairs)

10:10 – 10:20 **Key Concluding Observations** (10 mins): Prof Thuli Madonsela (Social Justice Chair, Stellenbosch University and M-Plan Convenor)

10:20 – 10:30 **Tea, Coffee Break and Photo Session**

10:30 – 12:30 **Plenary Panel I:** Exploring the historic, current and future immigration policy of South Africa and the implementation thereof and its effectiveness in achieving a socially just purpose.

Moderator: Ms Phelisa Nkomo (Development Economist & Board Chair of OxFam South Africa)

Panellists: (10 mins each)

1. **Representative of Minister Thembelani Thulas Nxesi:** Professor Marius Olivier (Ministry of Employment and Labour)
2. **Judge Dennis M Davis** (Judge President of the Competition Appeal Court of Cape Town)
3. **Professor Loren Landau** (Professor of Migration and Development at the University of Oxford, Research Professor at the University of the Witwatersrand's African Centre for Migration & Society)
4. **Lily Hlophe** (Project manager for the DDP Migration Project and PhD candidate in Sociology, at the University of KwaZulu-Natal)
5. **Jacques van Zuydam** (Chief Director Population & Development, Department of Social Development, South Africa)
6. **Naledi Plaatjies** (Associate Partner, for the Advancement of Women in informal Economy at Informality Concepts. PHD Candidate in Open Distance Learning, UNISA)

Discussion (60 mins)

12:30 – 13:00 **Lunch Break**

13:00 – 17:00

Afternoon Session

13:00 –14:52

Plenary Panel II: Critically analyse the legal and economic dimensions of foreign workers in South Africa and internationally with a specific focus on the effect on business opportunities and employment within the informal sector.

Moderator: **Prof Sakhela Buhlungu** (Vice-Chancellor, University of Fort Hare)

Panellists: (8 mins each)

1. **Dr Steven Gordon** (Senior research specialist in the Developmental, Capable and Ethical State research division at the Human Sciences Research Council)
2. **Diego Iturralde** (Chief Director: Demography and Population Statistics at Statistics South Africa)
3. **Lizette Lancaster** (Manager: Crime and Justice Information Hub, Justice and Violence Prevention Programme, Institute for Security Studies, Pretoria)
4. **Professor Hope Magidimisha-Chipungu** (SARChI chair for Inclusive cities , UKZN)
5. **Nompumelelo Nzimande** (Academic Co-ordinator for Population Studies and currently the President of the Population Studies Association of Southern Africa)
6. **Dr Nedson Pophiwa** (Senior Lecturer at Wits School of Governance)
7. **Dr Vanya Gastrow** (Research Associate at Centre for Law and Society, University of Cape Town)
8. **His Excellency Mr Charles Asuako Owiredu** (High Commissioner of the Republic of Ghana to the Republic of South Africa)
9. **Dr Axel Bayer** (Political Attaché, German Embassy)

Discussion (40 mins)

14:52 –15:00

Group Photograph (Digitally – ask participants to switch on cameras) **and Break**

15:00 –16:55

Plenary Panel III: Identify the nature and consequences of xenophobia through a social justice lens, as well as explore the triggers, causes and solutions to rising violence against foreigners arising from xenophobic sentiment amongst discontented South Africans.

Moderator: **Professor Francis Petersen**, Rector and Vice-Chancellor of the University of the Free State

Panellists (10 mins each)

1. **Andre Vlok** (Conflict resolution specialist at Conflict Resolution Centre and Eyodwa Workplace Conflict Systems Design)
2. **Adeoye Akinola** (Senior Researcher at the Institute for Pan-African Thought and Conversation in the Faculty of Humanities at the University of Johannesburg)

3. **Dr Dorcas Ettang** (Senior Lecturer of Political Science with a PhD Conflict Transformation and Peace Studies, School of Social Sciences University of KwaZulu-Natal)
4. **Dr Valery Ferim** (Senior Lecturer of the Department of Political Science and International Relations at the University of Fort Hare in South Africa)
5. **Dr Hilary Jephath Musarurwa** (PhD Candidate in Peacebuilding Studies at the Durban University of Technology, South Africa.)
6. **Prof Pragna Rugunanan** (Head of Department and Professor in Sociology at University of Johannesburg)
7. **Dr Quatro Mgogo** (Senior Lecturer in Journalism, North-West University)

Discussion (45 mins)

16:55 – 17:00 **Final words and Vote of Thanks** Prof Thuli Madonsela (Social Justice Chair, Stellenbosch University and M-Plan Convenor) (5mins)